

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL DIVISION

LORI PEARMAN,

PLAINTIFF,

v.

CASA OF THE FIFTH JUDICIAL
DISTRICT, INC.,

DEFENDANT.

No.

16th
CV09-10935

FILED 10/28/09 09:45:56
Pat O'Brien Pulaski Circuit Clerk
CR11
SS

PETITION FOR REVIEW OF FOIA DENIAL

I.

NATURE OF THE ACTION

1. This is a Petition for Review brought under the Freedom of Information Act, A.C.A. § 25-19-101, *et. seq.* (hereinafter referred to as the "FOIA") to remedy Defendant's unlawful denial of public information not exempt under the FOIA and denial of information of substantial public interest.

II.

JURISDICTION AND VENUE

2. This Court has jurisdiction pursuant to Ark. Const., Amend. 80, § 6, and Ark. Code Ann. § 16-13-201(a). This Court also has jurisdiction pursuant to A.C.A. § 25-19-107.

3. This Court has personal jurisdiction over Defendant CASA of the Fifth Judicial

District, Inc. (hereinafter "Defendant" or "CASA") pursuant to ARK. CODE ANN. § 16-4-101. At all times material to this action, CASA was conducting business in the State of Arkansas and all or part of the transactions which give rise to this action took place in Arkansas.

4. Venue is proper in this judicial district pursuant to ARK. CODE ANN. § 25-19-107.

III.

THE PARTIES

5. Plaintiff Lori Pearman (hereinafter referred to as "Petitioner") is a citizen of the State of Arkansas and resides in Pope County, AR.

6. Defendant is a Domestic corporation and is registered with the Arkansas Secretary of State as a non-profit corporation. Defendant's registered agent for service is Dr. Cal Dunham, 310 Newman Rd, Russellville, AR 72802.

IV.

FACTUAL ALLEGATIONS

7. CASA receives state and federal funds subjecting it to FOIA requirements. CASA receives public funds and is sufficiently intertwined with government affairs.

8. CASA receives federal funds through the VOCA grant and routinely provides information pursuant to FOIA.

9. On October 7, 2009, Plaintiff submitted a FOIA request to CASA requesting the CASA Volunteer Application of its current Executive Director, Genney Baker.

10. Mrs. Genney Baker plead guilty to Second Degree Theft (Embezzlement) in the Superior Court of the State of Washington on June 10, 1992.

11. Petitioner believes that Mrs. Genney Baker did not disclose the criminal conviction on her volunteer application and did not disclose her criminal conviction on

subsequent applications. Petitioner was on the Board of Directors of CASA and states that this information was never known to the Board during her tenure.

12. The documents requested are "public records" pursuant to A.C.A. § 25-19-103 and the volunteer application would be either a non-exempt public record or a personnel record.

13. FOIA allows the disclosure of personnel records unless their disclosure constitutes a "clearly unwarranted invasion of personal privacy." A.C.A. § 25-19-105(b)(12). In determining which disclosures constitute a "clearly unwarranted invasion of personal privacy," the court applies a balancing test. The court should weigh the interest of the public in accessing the records against the individual's interest in keeping the records private. See Young v. Rice, 308 Ark. 593, 826 S.W.2d 252 (1992). If the public's interest outweighs the individual's interest, the release of the records will not constitute a "clearly unwarranted invasion of personal privacy." If there is little public interest in the information, the privacy interest will prevail if it is not insubstantial. Stilley v. McBride, 332 Ark. 306, 965 S.W.2d 125 (1998).

14. Petitioner has repeatedly requested this information and been denied. CASA at one point agreed to provide the volunteer application with the criminal history section redacted. This disclosure never occurred.

15. The requested information involves a substantial public interest. Mrs. Genney Baker pled guilty to embezzlement and now is the Executive Director of an organization that is almost completely supported by public funds. The public has a right to know if this criminal conviction was ever disclosed on her volunteer application or any other application. Mrs. Genney Baker apparently objects to the disclosure because she recently had the conviction expunged. Even if this assertion is true, the argument is irrelevant because the Petitioner is not requesting her criminal record.

16. The public has a substantial interest in knowing the criminal status of person running a publicly funded organization. Applying the balancing test, the documents should be disclosed as the public's interest in accessing the records is greater than Mrs. Genney Baker's interest.

17. Mrs. Genney Baker's privacy interest does not override public interest. Genney Baker voluntarily completed the documents for an organization that receives public funds. At the time that she completed the applications, the criminal conviction for embezzlement was public record. She had no expectation of privacy as to the conviction or the alleged disclosure of the conviction on any application. Or, she concealed the conviction, as alleged by Petitioner, in order to secure a volunteer position and then a permanent position with CASA. Either way, the public has an overriding interest in this matter.

18. Pursuant to A.C.A. § 25-19-107, Petitioner requests her attorney's fees and expenses.

19. Pursuant to A.C.A. § 25-19-107, Petitioner requests her Petition for review be heard within seven (7) days of the date of this application.

V.

PRAYER FOR RELIEF

WHEREFORE, the Petitioner, Lori Pearman, demands the following relief:

1. For an Order directing CASA to disclose the CASA Volunteer Application and any other applications of Genney Baker with all criminal information;
2. Grant Petitioner her reasonable attorney's fees, expenses and costs incurred in this litigation; and
3. Grant the Petitioner such further relief as the Court may deem just and proper.

Respectfully Submitted,



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**COVER SHEET
STATE OF ARKANSAS
CIRCUIT COURT: CIVIL**

The civil reporting form and the information contained herein shall not be admissible as evidence in any court proceeding or replace or supplement the filing and service of pleadings, orders, or other papers as required by law or Supreme Court Rule. This form is required pursuant to Administrative Order Number 8. Instructions are located on the back of the form.

FILING INFORMATION

County: PULASKI District: _____ Case Number: Cy09-0935
Judge: Brantley Division: 110th Filing Date: 10-28-09
Plaintiff: Lori Pearman Defendant: CASA of the Fifth Judicial District, Inc

Attorney Providing Information: Russell A. Wood 915 West "B" Street, Russellville, AR 72801

☒ Plaintiff ☐ Defendant ☐ Intervenor Address _____

Litigant if Pro Se: _____ Address _____

Related Case(s) Judge _____ Case Number(s) _____

Type of Case:

Torts

- ☐ (NM) Negligence: Motor Vehicle
- ☐ (NO) Negligence: Other
- ☐ (BF) Bad Faith
- ☐ (FR) Fraud
- ☐ (MP) Malpractice
- ☐ (PL) Products Liability
- ☐ (OD) Other _____

Contracts

- ☐ (IS) Insurance
- ☐ (DO) Debt: Open Account
- ☐ (PN) Debt: Promissory Note
- ☐ (EM) Employment
- ☐ (OC) Other _____

Equity

- ☐ (FC) Foreclosure
- ☐ (QT) Quiet Title
- ☐ (IJ) Injunction
- ☐ (PT) Partition
- ☐ (OT) Other _____

Miscellaneous

- ☐ (CD) Condemnation
- ☐ (RE) Replevin
- ☐ (DJ) Declaratory Judgment
- ☐ (UD) Unlawful Detainer
- ☐ (IN) Incorporation
- ☐ (EL) Election
- ☐ (FJ) Foreign Judgment
- ☐ (WT) Writs
- ☐ (AA) Administrative Appeal
- ☐ (CF) Property Forfeiture
- ☐ (RD) Remove Disabilities
- ☐ (NC) Name Change
- ☒ (OM) Other: FOIA

Jury Trial Requested: ☐ Yes ☒ No

Manner of Filing:

☒ Original ☐ Re-open ☐ Transfer
☐ Return from Federal/Bankruptcy Court

DISPOSITION INFORMATION

Disposition Date: _____ ☐ Bench Trial ☐ Non Trial ☐ Jury Trial

Judgment Type:

- ☐ (DJ) Default Judgment
- ☐ (SJ) Summary Judgment
- ☐ (CJ) Consent Judgment
- ☐ (TJ) Trial Judgment
- ☐ (OJ) Other Judgment
- ☐ (PG) Petition Granted
- ☐ (PD) Petition Denied
- ☐ (DF) Decree of Foreclosure

Dismissal Type:

- ☐ (DW) Dismissed with Prejudice
- ☐ (DN) Dismissed without Prejudice

Other:

- ☐ (TR) Transferred to Another Jurisdiction
- ☐ (RB) Removed to Bankruptcy Court
- ☐ (RF) Removed to Federal Court
- ☐ (AR) Arbitration

Judgment For:

☐ Plaintiff ☐ Defendant ☐ Both

Judgment Amount: \$ _____

Clerk=s Signature _____

AOC 23 10-01
625 Marshall Street
Little Rock, AR 72201
EFFECTIVE 1-1-2002

Date _____

Send 1 paper or electronic copy to AOC upon filing.
Send 1 paper or electronic copy to AOC upon disposition.
Keep original in court file.